

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

FERNANDO CIENFUEGOS,

Defendant.

Case No. CR06-425-MJP

**PROPOSED FINDINGS OF FACT AND  
DETERMINATION AS TO ALLEGED  
VIOLATIONS OF SUPERVISED  
RELEASE**

INTRODUCTION

I conducted a hearing on alleged violations of supervised release in this case on August 27, 2008. The defendant appeared pursuant to a summons. The United States was represented by the Doug Whalley, and defendant was represented by Kevin Peck. Also present was U.S. Probation Officer Monique Neal. The proceedings were digitally recorded.

CONVICTION AND SENTENCE

Defendant was sentenced on January 25, 2008 by the Honorable Marsha J. Pechman, for conspiracy to distribute heroin. He received 357 days of imprisonment and three years of supervised release.

PRIOR VIOLATIONS OR MODIFICATIONS

On January 25, 2008, defendant commenced his term of supervised release. On February 19, 2008, defendant violated his conditions of supervision by using oxycodone, alcohol, heroin,

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SUPERVISED RELEASE -1

1 and methamphetamine. On March 19, 2008, at the recommendation of the probation office, the  
2 court took no action as the defendant was in the process of entering outpatient substance abuse  
3 treatment.

4 PRESENTLY ALLEGED VIOLATIONS AND  
5 DEFENDANT'S ADMISSION OF THE VIOLATIONS

6 In a petition dated July 25, 2008, Supervising U.S. Probation Officer Monique Neal  
7 alleged that defendant violated the following conditions of supervised release:

- 8 1. Using oxycodone on or before the boring 19, 2008.
- 9 2. Using alcohol, heroin, and methamphetamine on or before March 3, 2008.
- 10 3. Using heroine on or before April 28, 2008.
- 11 4. Using methamphetamine and OxyContin on or before June 4, 2008.

12 In a petition dated August 20 6, 2008, Supervising U.S. Probation Officer Monique Neal  
13 alleged that defendant violated the following conditions of supervised release:

- 14 5. Using Vicodin on or before July 31, 2008.
- 15 6. Using morphine on or before August 7, 2008.
- 16 7. Using cocaine on or before August 12, 2008.

17 After being advised of his right to require the government to prove the alleged violations  
18 and penalties, defendant admitted violations 1, 2, 3, 4, 5 and 6. Following defendant's  
19 admissions, the government withdrew violation 7. The government also moved that the  
20 defendant be detained. The defense moved for release. The Court ordered defendant be detained  
21 pending disposition in this case.

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RECOMMENDED FINDINGS AND CONCLUSIONS

Based upon the foregoing, I recommend the court find that defendant has violated conditions 1,2, 3, 4, 5, and 6 of his supervised release as alleged above.

DATED this 27<sup>th</sup> day of August, 2008.

s/ BRIAN A. TSUCHIDA  
BRIAN A. TSUCHIDA  
United States Magistrate Judge